SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
WRIT APPEAL NO. 943 OF 2006

BETWEEN
Lanka Ramu Naidu & others

.....Appellants

And
Revenue Divisional Officer,
Visakhaptnam & others.

.....Respondents

Counsel for the appellants : Shri A.V. Sesha Sai

Counsel for the respondents : Government Pleader for Revenue

Dated: 15.09.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 17.07.2006 passed by the learned Single Judge in Writ Petition No.14133 of 2006 whereby he rejected the appellants' prayer for issue of a direction to Revenue Divisional Officer, Visakhapatnam (respondent No.1) to dispose of the stay application filed by them in appeal proceedings in Rc.No.177/05.

Appellant Nos.1 and 3 are ex-servicemen and appellant No.2 is widow of an ex-serviceman. In the year 1990, appellants No.1 and 3 and husband of appellant No.2 were assigned different parcels of land in Asakapalli village, Sabbavaram Mandal of Visakhapatnam district. The appellants and one M.Vara Govinda filed Writ Petition No.7411 of 2005 with the complaint that the respondents were seeking to dispossess them. When the writ petition was taken up for hearing, learned Government Pleader brought to the notice of the Court that the assignment made in favour of writ petitioners had been cancelled by the Mandal Revenue Officer vide his order dated 11-03-2005. A copy of that order was supplied to the counsel for petitioners. The learned Single Judge, after taking note of the statement made by the learned Government Pleader, disposed of the writ petition by granting leave to writ petitioners to challenge order dated 11-03-2005 by working out appropriate remedy. The operative portion of order dated 11-04-2005 passed by the learned single Judge reads as follows:

" In these circumstances, the relief as prayed for cannot be granted. Accordingly, the writ petition is disposed of granting leave and liberty to the petitioners to challenge the order of cancellation dated 11-03-2005 by working out the appropriate remedy as available under law. No order as to costs."

After almost one year, the appellants and M.Vara Govinda filed an appeal before the Revenue Divisional Officer. They also filed an application for staying the operation of order dated 11.03.2005 passed by the Mandal Revenue Officer. After another two months, they instituted Writ Petition No.14133 of 2006 with the prayer that the appellate authority i.e. the Revenue Divisional Officer may be directed to dispose of their stay application in appeal proceedings in Rc.No.177/05.

The learned Single Judge dismissed the writ petition by recording the following observations:

" The expectation of the petitioners as set out in this writ petition is misconceived. Petitioners having preferred an appeal in April, 2006 against an order of cancellation of assignments of the Mandal Revenue Officer dated 11-03-2005, cannot legitimately expect the appeal even if maintainable and within time, to be disposed of within two months. It is not as though the first respondent has this appeal as his singular official business. Petitioners appeal will be considered in due time and in accordance with law. No case is made out for issuance of any mandamus for expeditious hearing of a belated appeal."

Shri A.V.Sesha Sai, learned counsel for appellants argued that order passed by the Mandal Revenue Officer cancelling the assignment of land made in favour of appellant Nos.1 and 3 and husband of appellant No.3 is patently illegal, and is liable to be quashed because the same was passed in violation of rules of natural justice. Learned counsel then submitted that the appellants have invested huge amount for making the land cultivable and have planted cashew trees, but without ensuring service of show cause notice dated 25-02-2005, the Mandal Revenue Officer arbitrarily cancelled the assignment. He further submitted that if the stay application filed by the appellants is not heard and disposed of, they will suffer irreparable injury.

Learned Government Pleader for Revenue submitted that he will have no objection if a direction is given to the Revenue Divisional Officer to decide the application for stay filed by the appellants.

We have considered the respective submissions and perused the record. Since the appeal filed by appellants against order dated 11-03-2005 is pending, we do not consider it proper to express any opinion on the merits of the contentions urged by
Shri A.V.Sesha Sai. But, at the same time, we are convinced that the prayer made by the appellants for issue of a direction to the appellate authority to decide their application for stay deserves to be granted. If the stay application is not decided and, in the meantime, rights of third parties are created in the land in question, the very purpose of filing of the appeal by the appellants against order dated 11.03.2005 will be frustrated.

In the premise aforesaid, the appeal is disposed of with the direction that the Revenue Divisional Officer before whom the appeal preferred by the appellants is pending shall hear the parties and pass appropriate order on the stay application within a period of ten days from the submission of copy of this order.

As a sequel to disposal of the writ appeal, W.A.M.P.No.1986 of 2006 filed by the appellants for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

15.09.2006

ksld/bsc

Note:The Court Officer is directed to give attested copy
of this order to the counsel for the parties.